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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/717,078

11/19/2003

Karl R. Kennedy

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EXAMINER

CHOI, JACOB Y

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/717,078

Applicant(s)

KENNEDY ET AL.

Examiner

Jacob Y. Choi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-18, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 4-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

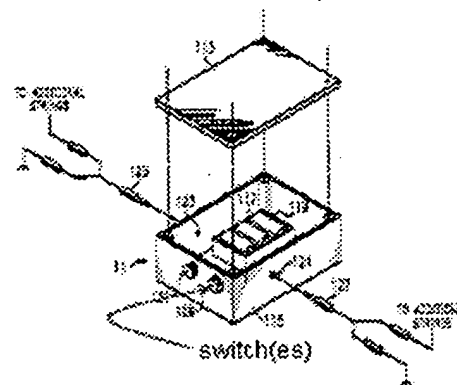
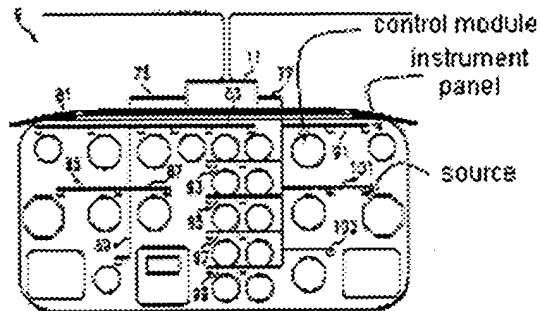
3. Claims 1-3, 10-17, & 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Borkowski (USPN 6,247,825).

Regarding claims 1, 13 & 17, Borkowski discloses an instrument panel (e.g., 9), a control panel (e.g., column 3, lines 1-15; "... *in order to illuminate a plurality of vehicle instruments ... etc.*") attachable to the instrument panel (e.g., column 2, lines 59-61; "... *it is one objective of the present invention to provide a vehicle lighting system which does not require rewiring of the instrument panel ... etc.*"), the control panel comprising a plurality of switches (e.g., column 3, lines 50-65; "... *a cockpit of an aircraft ... a plurality of conventional lighted gages, dials, meters and instrument panels are provided, all of which are essential for proper flight operations ... etc.*") for use by an

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occupant in the passenger (e.g., claim 3; "... *said spot light is visually observable by a human being ... etc.*") compartment to control, and an illumination source (e.g., 35, 37, 39) for selectively illuminating at least at least one of the plurality of switches (e.g., claim 4 & column 4, lines 15-25; "... *at least one switch accessible from an exterior position on said portable housing for selectively applying power from said battery pack to said plurality of light-emitting circuit element ... etc.*" & "... *in accordance with the illumination system 9 of the present invention, each dial, gage, meter or instrument has its own individual lighting which is provided by a light emitting diode which is dedicated thereto ... etc.*"), wherein each of the plurality of switches (e.g., claim 4; "... *at least one switch accessible ... etc.*") is visible to the occupant only when illuminated by the illumination source (35, 37, 39) and a control module (e.g., Figures 1-4) to be provided in communication with the control panel (Figures 1-3) and the illumination source, the control module for selectively interfacing the control panel with the at least one vehicle system (e.g., column 3, lines 50-65; "... *a cockpit of an aircraft ... a plurality of conventional lighted gages, dials, meters and instrument panels are provided, all of which are essential for proper flight operations ... etc.*") to be controlled, and for controlling the illumination source to selectively illuminate at least one of the plurality of vehicle system to be controlled.

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Note: dependent claim 13 is now incorporated into independent claim 1, it may be appropriate to cancel claim 13

Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

Things clearly shown in reference patent drawing qualify as prior art features, even though unexplained by the specification. *In re Mraz*, 173 USPQ 25 (CCPA 1972).

\* in order to given patentable weight, a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claim 2, Borkowski discloses the illumination source comprises a projector for projecting light onto the plurality of switches (e.g., column 4, lines 15-25; "... in accordance with the illumination system 9 of the present invention, each dial, gage, meter or instrument has its own individual lighting which is provided by a light emitting diode which is dedicated thereto ... etc.").

Regarding claim 3, Borkowski discloses the projector is to be located in the passenger compartment.

Regarding claim 10, Borkowski discloses the illumination source is a plurality of light emitting diodes (e.g., 35, 37, 39) in proximity to the plurality of switches (e.g., column 4, lines 15-25; "... in accordance with the illumination system 9 of the present

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*invention, each dial, gage, meter or instrument has its own individual lighting which is provided by a light emitting diode which is dedicated thereto ... etc.*").

Regarding claims 11-12, Borkowski discloses each of the plurality of switches comprises a membrane switch & a touch activated switch.

Regarding claim 14, Borkowski discloses each of the plurality of switches comprises at least icon for illumination by the illumination source (e.g., 35, 37, 39).

Regarding claim 15, Borkowski discloses the at least one icon comprises a plurality of icons (Figures 1-3), each of the plurality of icons associated with one of plurality of vehicle system.

Regarding claim 16, Borkowski discloses each of the plurality of switches comprises at least one icon for illumination by the illumination source, and wherein the control module selectively illuminates at least one icon based on the at least one vehicle system to be controlled (e.g., column 4, lines 15-25).

Regarding claim 21, Borkowski discloses at least two icons are associated with each switch and the control module controls which of the at least tow icons is illuminated and the vehicle system controlled as function thereof.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 18 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borkowski (USPN 6,247,825) in view of Fukumoto et al. (USPN 6,121,959).

Regarding claim 18, Borkowski disclose the claimed invention, except for an audible actuation notification provide with the actuation of the switch.

Fukumoto et al. teaches the plurality of switches includes an audible actuation notification to provide the occupant with an indication of actuation of the switch (column 8, lines 25-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention to associate sound indication of Fukumoto et al. with the actuation switch of Borkowski to notify the user both visually and audibly, while the user functions the system.

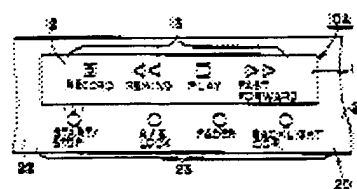
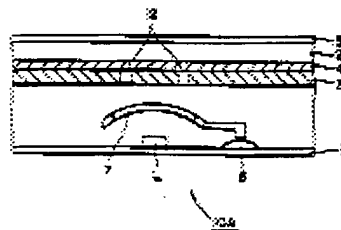
Regarding claim 20, Borkowski in view of Fukumoto et al. discloses the claimed invention, explained above. In addition, Borkowski discloses the illumination source is projector (e.g., Figure 5A) for projecting light onto the plurality of switches.

6. Claims 1-3, 10-17, & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebine (USPN 5,987,793) in view of Damiani et al. (US 2002/0080043).

Regarding claims 1, 13 & 17, Ebine discloses an instrument panel (e.g., 20), a control panel (e.g., 22) attachable to the instrument panel, the control panel comprising a plurality of switches (e.g., 13) for use by an occupant in the passenger compartment to control, and an illumination source (e.g., L) for selectively illuminating at least one of

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the plurality of switches (e.g., column 2, lines 20-60; "... the display device 10 of the above-described structure, normally an un-shown selector switch is set to the camera shooting function side, so that the display item 12 on the display plane 11 are turned off as shown in FIG 4B or 5B to thereby appear as if nothing is existent ... the reason for such disappearance resides in that, if the operation key 13 for the recording/playback function are kept displayed, many keys are always seen to consequently give general users a wrong impression that operating the video camera is very complicated and difficult ... etc."), wherein each of the plurality of switches is visible to the occupant only when illuminated by the illumination source\* (abstract; "the display characters are completely invisible when the illuminating light is turned off, whereby the appearance of the display device is rendered congruous with the metallic or similar color of the surrounding cabinet"; & columns 4-5, lines 65-15) and a control module to be provided in communication with the control panel and the illumination source, the control module for selectively interfacing the control panel with at least one of the plurality of vehicle systems to be controlled, and for controlling the illumination source to selectively illuminate at least one of the plurality of icons based on the at least one of the plurality of vehicle system to be controlled.





Ebine discloses the claimed invention except for the plurality of switches is used for the vehicle system.

Damiani et al. teaches the plurality of switches is used for the vehicle system (Figures 1 & 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize teachings of Ebine within the vehicle system, where the vehicle instrument panel commonly comprise of DVD player or Navigation containing operation means (Figure 2A) of Ebine. In addition, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Note: \* in order to given patentable weight, a functional recitation must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Regarding claim 2, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses the illumination source comprises a projector (e.g., lens; 7) for projecting light onto the plurality of switches.

Regarding claim 3, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses the projector is to be located in the passenger compartment.

Regarding claim 10, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses the illumination source (e.g., "L") is a plurality of light emitting diodes in proximity to the plurality of switches (e.g., 13).

Regarding claim 11, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses each of the plurality of switches (8) comprises a touch activated field effect switch.

Regarding claim 12, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses each of the plurality of switches (8) comprises a membrane switch.

Regarding claim 14, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses each of the plurality of switches comprises at least one icon for illumination by the illumination source.

Regarding claim 15, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses the at least one icon comprise a plurality of icons, each of the plurality of icons associated with one of a plurality of systems.

Regarding claim 16, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses each of the plurality of switches comprises at least one icon for illumination by the illumination source, and wherein the control module selectively illuminates the at least one icon based on the at least one vehicle system to be controlled.

Regarding claim 21, Ebine in view of Damiani et al. disclose the claimed invention, explained above. In addition, Ebine discloses at least two icons are associated with each switch and the control module controls which of the at least two icons is illuminated and the vehicle system controlled as function thereof.

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7. Claims 18 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebine (USPN 5,987,793) in view of Damiani et al. (US 2002/0080043) as applied to claim 15 above, and further in view of Fukumoto et al. (USPN 6,121,959).

Regarding claim 18, Ebine in view of Damiani et al. disclose the claimed invention, except for an audible actuation notification provide with the actuation of the switch.

Fukumoto et al. teaches the plurality of switches includes an audible actuation notification to provide the occupant with an indication of actuation of the switch (column 8, lines 25-35).

It would have been obvious to one of ordinary skill in the art at the time of the invention to associate sound indication of Fukumoto et al. with the actuation switch of Ebine to notify the user both visually and audibly, while the user functions the system.

Regarding claim 20, Ebine in view of Damiani et al. and further in view of Fukumoto et al. discloses the claimed invention, explained above. In addition, Ebine discloses the illumination source is projector for projecting light onto the plurality of switches.

***Allowable Subject Matter***

8. Claims 4-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Amendment***

9. Examiner acknowledges that the applicant has amended claim 1 & 17, canceled claim 19, and added claim 21. Currently, claim 1-18, 20 & 21 are pending in the application.

***Response to Arguments***

10. Applicant's arguments filed January 16, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *"a control module that not only selectively interfaces a control panel with at least one of plurality of vehicle systems to be controlled but that also controls an illumination source to selectively illuminate at least one of the plurality of switches/icons based on the at least one of the plurality of vehicle system to be controlled ... etc."*) are clearly taught and disclosed by mentioned prior art references (e.g., column 3, lines 50-65 of Borkowski (USPN 6,247,825); *"... a cockpit of an aircraft ... a plurality of conventional lighted gages, dials, meters and instrument panels are provided, all of which are essential for proper flight operations ... etc."*) & (e.g., claim 4 & column 4, lines 15-25; *"... at least one switch accessible from an exterior position on said portable housing for selectively applying power from said battery pack to said plurality of light-emitting circuit element ... etc."* & *"... in accordance with the illumination system 9 of the present*

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*invention, each dial, gage, meter or instrument has its own individual lighting which is provided by a light emitting diode which is dedicated thereto ... etc."*).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### **Conclusion**

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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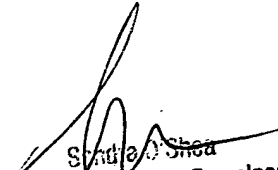
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y. Choi whose telephone number is (571) 272-2367. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC

  
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